S. HRG. 99-483

OVERSIGHT OF COMPLIANCE WITH THE RANDOLPH-SHEPPARD ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON CIVIL SERVICE, POST OFFICE, AND GENERAL SERVICES

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

OCTOBER 4, 1985

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OVERSIGHT OF COMPLIANCE WITH THE RANDOLPH-SHEPPARD ACT

FRIDAY, OCTOBER 4, 1985

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SUBCOMMITTEE ON CIVIL SERVICE, POST OFFICE,
AND GENERAL SERVICES,
Washington, DC.

The subcommittee met at 10:05 a.m., in room SD-342, the Dirksen Senate Office Building, Hon. Ted Stevens (chairman of the subcommittee) presiding.

Present: Senator Stevens.

Staff present: Wayne A. Schley, staff director; Ruth Wheeler, professional staff assistant; Pat Phillips, chief clerk; and Thurgood Marshall, Jr., minority staff director and counsel.

OPENING STATEMENT OF SENATOR STEVENS

Senator STEVENS. Good morning. We are here today to comply with a commitment I made some time ago to Sandy Sanderson, who is the head of the Alaska Federation of the Blind, to examine the issue of compliance with the provisions of the Randolph-Sheppard Act of 1936.

The act was established in order to provide blind persons with an opportunity to gain economic independence. It first authorized a preference for the blind, working through State licensing agencies, to operate vending stands in Federal buildings.

In 1974, in response to a congressional review of the program, the act was amended in an attempt to strengthen the mandate of the original bill by providing for a change in the term vending stand to vending facility, which includes cafeterias, space for cafeterias, vending machine operations, newsstands and so forth in Federal buildings. These facilities were placed under priority for the blind unless it would be contrary to the interests of the United States.

Over the past several months, questions have been raised as to whether the blind priority has been honored, particularly with regard to the acquisition of cafeteria space. Under prescribed regulations, there are two methods by which cafeteria space in Federal buildings may be obtained: direct negotiation with the State licensing agency or solicitation of bids. Also, the Department of Education regulations afford the second option of competitive bidding, which puts commercial bidders in direct competition with blind vendors.

The General Services Administration has had a policy of offering cafeterias for 5-year leasing contracts, with subsequent renewal options of two more consecutive 5-year terms. If the original contract is awarded to a commercial bidder, this removes the cafeteria from a blind operation for a 15-year period, in practical effect ignoring the mandate of the Randolph-Sheppard Act, in our opinion.

This situation has occurred in the Federal building cafeterias in both Anchorage and Juneau in Alaska, and probably in other parts of the country. We have not received a study on that yet.

The controversy which has arisen as a result of these incidents in Alaska has brought to the forefront the need to examine the responsibilities of the Secretary of Education and the General Services Administration in the review and awarding of vending contracts. We hope to identify the criteria by which vending facilities may be obtained. This program serves a valuable function in not only providing blind persons with the means to earn a livelihood, but also providing a benefit to the entire Nation and, in my judgment, should be honored wherever possible.

I have my good friend Congressman Young from Alaska here. Do you have a statement?

Representative YOUNG. Yes, Mr. Senator.

TESTIMONY OF HON. DON YOUNG, REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

Representative YOUNG. Mr. Chairman, I wish to express my appreciation to you for holding these hearings to examine the problems that have come about in the administration of the Federal Randolph-Sheppard Program. This is an issue that we in the Alaska congressional delegation have been concerned about for some time, and I think I speak for all of us, Mr. Chairman, in expressing a certain amount of frustration with the bureaucracy and redtape we have experienced in our attempt to secure the opportunities which the law intends for the blind citizens of our State. I hope that we can achieve some resolution in the form of greater acceptance for the blind in accordance with their statutory priority which now exists under Federal law.

While I do not favor amending the Randolph-Sheppard Act—because I don't think changes in the law are in order—I do feel that the law seems overladen with bureaucracy. There are two Federal agencies and one State agency that must work together in a cooperative manner in order that this program be successful. Somehow, greater cooperation among these agencies must be encouraged to assure that blind vendors are benefited in the manner that the law intends.

That is the challenge placed before the agencies of our Government in the first section of the Randolph-Sheppard Act.

It provides a statutory priority for blind persons to operate vending facilities on all Federal property, including Federal cafeterias. Congress expects the agencies of the Government to cooperate in pursuing a cohesive Federal policy aimed at advancing business opportunities for blind vendors on all Federal property.

I have looked at the policies and practices of the General Services Administration, Mr. Chairman, and I must say that I do not

believe that the blind are being given a fair shake. Our recent experience in Alaska is only one example of the problem that has been going on for years.

Earlier this year, our delegation sent a letter to the GSA in advance of an extension of a cafeteria contract then being completed by Food Management Control, Inc. of Seattle, WA. That contract, for the Federal building cafeteria in Juneau, was expiring. GSA would have the option to negotiate with the State agency in Alaska in order to apply a priority for the blind of our State.

But even with a letter cosigned by all of us in the Alaska delegation, GSA refused to alter its course, and the contract for Food Management Control was extended.

GSA's position is that the contract is only up for renegotiation once the initial term and all extensions have expired. But in my view, not honoring the priority for the blind is a flagrant disregard of the mandate of the Randolph-Sheppard Act that expects priority to be extended whenever there is no legal restriction upon the Government sufficient to prevent it from doing so. This is a principal obligation of that agency and an abuse of the law.

Mr. Chairman, I am attaching to this statement, and asking by unanimous consent that it be incorporated in the hearing record, a copy of the letter we sent and the totally unsatisfactory response we eventually received from GSA. As the correspondence makes clear, our request on behalf of the blind vendors of our State was treated in a most careless and cavalier manner. If this is an example of the frustrations faced by blind vendors in other States, then I can understand why the blind would be dissatisfied with a system which is clearly not working on their behalf.

I hope that we will be able to do a better job for the blind of Alaska in the future and that one day we will see the Federal cafeterias operated by blind vendors.

Mr. Chairman, I want to say again that I deeply appreciate your cooperation in scheduling this important hearing this morning. I believe we can find a way and will find a way to assure a greater measure of opportunity for blind vendors. The hearing you are holding this morning is the first step, and I commend you. Let us go forward to fashion a solution, and I will be proud to join you in making that effort, as well.

Mr. Chairman, I commend you. Let's see if we can't get this show on the road to solve the problem.

[The information referred to follows:]

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March 6, 1985

Mr. Raymond Kline
Acting Administrator
General Service Administration
Room 6137
18th and F St. N.W.
Washington, D.C. 20405

Dear Mr. Kline:

We are writing to express our concern for the GSA contract for the cafeteria in the Federal Building in Juneau, Alaska. It is our understanding that Food Management Control Inc. has been operating this federal cafeteria since February 1975. It is our further understanding that the contract, made initially for a five-year period was extended once for an additional five years. Extensions are apparently approved at the discretion of GSA's contracting officer.

The contract in question expires April 1, 1985. According to the Randolph-Sheppard Act (20 U.S.C. 107 et. seq.) a priority should at that time be extended to blind persons licensed by the State of Alaska for operation of the cafeteria. However, it appears that GSA intends to grant another five-year extension to Food Management Control, Inc. for the continued operation of this cafeteria. If this is the case there will be a failure by GSA to implement the priority for blind vendors required by the Randolph-Sheppard Act.

We understand that extensions beyond the initial term of the contract are justified by GSA, as a matter of policy on the basis of offering an attractive, long-term opportunity. While this may enhance the prospects for potential bidders, it appears to violate both the letter and the spirit of the Randolph-Sheppard Act and its federal regulations.

Under the circumstances, we are requesting your cooperation in providing a priority for blind vendors in Alaska

to operate the federal building cafeteria in Juneau when the contract next expires in April of this year. While we have been informed of a pending arbitration on this matter (Texas Commission for the Blind vs. GSA), we are unaware of any formal ruling by a court or other competent legal authority upholding GSA's discretion to extend cafeteria contracts, when doing so clearly limits the blind priority.

We are requesting that priority be given to blind persons licensed by the State of Alaska for operation of this cafeteria and we are committed to pursuing this matter further in the event that the extension policy has been excercised.

We look forward to your response and thank you in advance for your consideration of this important matter.

Sincerely,

DON YOUNG
CONGRESSMAN FOR ALL ALASKA

TED STEVENS
UNITED STATES SENATOR

FRANK MURKOWSKI
UNITED STATES SENATOR

DY:pm

General
Services
Administration Washington, DC 20405

APR 26 1985

Honorable Frank Murkowski
United States Senate
Washington, DC 20510

Dear Senator Murkowski:

Thank you for your letter of March 6, 1985, concerning the cafeteria contract in the Federal Building, Juneau, Alaska, and certain requirements of the Randolph-Sheppard Act.

The contract for food service was awarded to Food Management Control, Incorporated on April 7, 1975, in accordance with prevailing agency competitive negotiation procedures. The contract allowed for an initial period of five years. With the mutual consent of the parties, the contract could be extended up to an additional 10 years. The first contract extension option was exercised by the contracting officer on December 18, 1979, and extended the incumbent contractor's term for a period of five years from April 26, 1980, through April 25, 1985. In December of 1984, the contracting officer directed that an onsite contract administration inspection be conducted to determine whether to solicit offers for the contract or again exercise the extension option. The detailed inspection confirmed the contractor's continuing high level of performance and the satisfaction of the building occupants with the services provided. Therefore, it was recommended that the contracting officer exercise the extension option in the contract. The contracting officer exercised the final extension option on March 28, 1985, for the term April 26, 1985 through April 25, 1990.

In our view, the subject contract does not expire, as that term is used in the regulations implementing the Randolph-Sheppard Act, until the Government exercises its rights under contract option provisions. Accordingly, the contract will expire on April 25, 1990. At that time, we would recompete the agreement in accordance with the Randolph-Sheppard regulations. On April 30, 1979, the Acting Commissioner of the Public Buildings Service testified on the agency's policy concerning this issue during the Senate oversight hearings on the Act.

The General Services Administration (GSA) is committed to complying fully with the Randolph-Sheppard Act. I have been told that GSA's track record in awarding cafeteria operations to the blind is unsurpassed. At present, of the 175 cafeterias on GSA-controlled property nationwide, 76 are operated under the Randolph-Sheppard Act. Of the 12 GSA-controlled properties in the State of Alaska that are occupied by 100 or more Federal employees, 6 vending facilities have been established by the

State licensing agency (SLA), and 3 additional offers are being considered by the SLA. One of these 3 offers is for the Old Federal Building and Courthouse in Anchorage which is to be retrofitted to include an 800 square feet modern snack bar and gift shop. We think this building will be one of the showcases in Anchorage.

Your letter referenced a pending arbitration action involving the State of Texas and GSA. Should a panel hearing materialize, it will be the first such arbitration involving GSA since the Randolph-Sheppard Act was amended over 10 years ago. There are marked dissimilarities in the Texas case if this were in any way to be compared with the circumstances of Juneau. Intensive, informal efforts are underway to resolve this matter. At this time, we are optimistic there will be no need for an arbitration hearing.

Priority consideration will be given to the blind for the operation of the cafeteria facility when the current contract expires on April 25, 1990, or if termination occurs by either party prior to that time.

Even though I believe this agency has complied with the Randolph-Sheppard Act in this case, I believe we have done a poor job of informing the Alaskan delegation on a timely basis. I apologize for this deficiency and have directed that more effective controls be established and higher priority attention be given Congressional letters.

Sincerely,

Dwight Ink

Senator STEVENS. Thank you. We will put the statement of Senator Murkowski, who is at an Intelligence Committee meeting, in the record.[1]

The first witness is the Honorable Madeleine Will, Assistant Secretary for Special Education and Rehabilitative Services for the U.S. Department of Education.

TESTIMONY OF MADELEINE C. WILL, ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES, U.S. DEPARTMENT OF EDUCATION

Senator STEVENS. Good morning.

Mrs. WILL. Good morning.

Mr. Chairman, I have a very brief statement I would like to read.

Mr. Chairman and members of the subcommittee, I welcome this opportunity to appear before the subcommittee to provide testimony on the Randolph-Sheppard Act. When Congress passed the Randolph-Sheppard Act in 1936 to establish the authority of the vending stand program, it opened up a new era for gainful employment of blind persons in this Nation. This program has been and can continue to be an effective program in the broad spectrum of rehabilitation programs for blind persons.

The basic purpose of the Randolph-Sheppard Act, as amended by title II of Public Law 93–516, is to provide a priority to qualified licensed blind persons to operate vending facilities on Federal property and to provide for the operation of vending facilities on other property.

This program offers a unique opportunity for blind persons to be self-employed as managers of vending facilities. In fiscal year 1984, there were 3,253 Randolph-Sheppard vending facilities, 979 on Federal property and 2,274 on non-Federal property, providing employment for 3,653 blind vendors, 1,077 persons on Federal property and 2,576 persons on non-Federal property. The national average earnings of a vendor were $18,537 in fiscal year 1984, an increase of 7.1 percent over the fiscal year 1983 average of $17,308.

In fiscal year 1984, the total gross income reached $298.8 million, representing a 6.9-percent increase over the previous year. Total vendor earnings were $60.6 million, an increase of $4 million or 7.1 percent over fiscal year 1983.

The Rehabilitation Services Administration [RSA] manages the Federal aspects of the program. RSA has established several objectives directed at improving program administration. For example, as part of the fiscal year 1986 management improvement goal, an objective focusing on training State Randolph-Sheppard administrators and business counselors has been developed. The West Virginia Research and Training Center, a university-based organization specializing in rehabilitation issues, has just completed the development of training materials focusing on the rehabilitation of blind persons and the planning, operation, and evaluation of vendor facilities.

These materials have been used in a national conference to train regional training staff. They have been distributed to regional re-

[1] See p. 61.

habilitation continuing education programs and to regional RSA offices to be used in training State licensing agency officials to improve the State administration of this program.

In an effort to improve Federal monitoring and enhance State compliance with the Randolph-Sheppard Program, a Randolph-Sheppard State review guide developed by RSA in fiscal year 1985 will be used to review at least one SLA in each region this year to identify and resolve problems in the administration of this program.

We anticipate that these combined training and monitoring initiatives will improve the administration of the Randolph-Sheppard Program and strengthen the management practices of the vending facility operators.

The Randolph-Sheppard Act provides an arbitration system for handling grievances of licensed blind vendors. Since 1978, 51 complaints have been filed with the Department to request the convening of an arbitration panel. Presently, there are 12 arbitrations in process which are being administered and monitored by staff of the Randolph-Sheppard vending facility branch in the Rehabilitation Services Administration.

Mr. Chairman, I can personally assure you that the Department will pursue all avenues open to us for the resolution of any problems which may be identified at these hearings. We will continue to pursue the goal of expanding opportunities for blind individuals to become self-employed.

I appreciate the opportunity to testify before the subcommittee and to answer any questions you may have concerning the Federal responsibilities for the Randolph-Sheppard Program.

Senator STEVENS. What criteria do you use at the Department of Education to determine when you will be involved with direct negotiation and when you will have competitive bidding in the awarding of a contract for a cafeteria?

Mrs. WILL. I think that the best way to answer that is to read to you the regulations which state that:

> Priority in the operation of cafeterias by blind vendors on Federal property shall be afforded when the Secretary determines, on an individual basis, and after consultation with the appropriate property-managing department, agency, or instrumentality, that such operation can be provided at a reasonable cost, with food of a high quality comparable to that currently provided employees, whether by contract or otherwise. Such operation shall be expected to provide maximum employment opportunities to blind vendors to the greatest extent possible.

Senator STEVENS. Do you have any idea how many of these contracts have been changed from a nonblind to a blind contractor in recent years?

Mrs. WILL. No, Senator. We don't collect that information, although we expect that the State licensing agencies would have that kind of information. They are responsible for it.

Senator STEVENS. Section 107(a)(2) of title 20 of the United States Code requires the Department of Education to make annual surveys of vending opportunities in Federal buildings. Have you made those? Is the Department of Education making those?

Mrs. WILL. No. Again, we view the program as a program that should be operated through decentralized management.

Senator STEVENS. Will you provide for the record how long it has been since the Department of Education complied with the basic law and made an annual survey of vending opportunities for the blind?

Mrs. WILL. Yes, sir. I will.

[The information referred to follows:]

Surveys are conducted by State licensing agencies [SLAs]. The Randolph-Sheppard Act, as amended, states that all Federal entities shall provide notification to the appropriate SLA of their plans for occupation, renovation, or relocation of a building adequate to permit the SLA to determine whether the building includes a satisfactory site or sites for a vending facility.

In their applications for designation, which are approved by the Commissioner, the SLAs assure that they will conduct a survey of all potential locations to determine the feasibility of establishing a vending facility. On an annual basis the SLAs provide the survey data to the Rehabilitation Services Administration through form RSA-15, Report of Vending Facility Program. These data include the number of sites surveyed, and the number of sites accepted and not accepted.

State licensing agencies may use Federal funds available to them under the Rehabilitation Basic State Grant program to conduct these surveys. Additionally, the West Virginia Research and Training Center, under a training grant awarded by RSA, has recently completed the development of training materials which include guidance on conducting formal site surveys.

Senator STEVENS. Do you have a review function in dealing with the State licensing agencies? Do you review what they do after you make an opportunity available for them to contract with the blind?

Mrs. WILL. We don't review every action in the process, no. As I mentioned in our testimony, we are conducting what we call program administrative review, which is an objective set for fiscal year 1986. This is our attempt to analyze and review the management of the programs by the State licensing agencies, and we will develop instruments that will allow us to look at questions such as the amount of income that is produced by the program, the number of vendors, and the overall efficiency in the program.

Senator STEVENS. Congressman Young has mentioned the maze of bureaucracy that confronts a potential blind vendor at one of these opportunities.

Has anything been done to bring about a coordination of the responsibility of the Department of Education and GSA and the State agencies so that the blind vendor only need deal with one person representing Government?

Mrs. WILL. Yes, Senator. We have engaged in conversations with the members of the departments such as GSA and USPS and DOD. We are trying to improve coordination. We think that the training task that we have set will allow us to raise awareness of the Randolph-Sheppard Program among the property managers, and we are also attempting to make known to them the requirements of the Randolph-Sheppard Act.

In addition, we work with the agencies in terms of individual cases.

Senator STEVENS. You keep saying "we." Is it you or GSA or the State agencies?

Mrs. WILL. When I say "we," I mean the officers of the Rehabilitation Services Administration working with agencies like GSA and USPS.

Senator STEVENS. If a blind person wants to become a vendor under the Randolph-Sheppard Act, can that person come to you

and have you contact GSA and the State agency to see what opportunities exist, or does that person have to go to three different government agencies in order to assess an opportunity?

Mrs. WILL. That person should really be able to obtain that information through the State licensing agencies, which would have information about possible opportunities for vending sites.

Senator STEVENS. I have got to respectfully ask, how can the State agencies have that information if the Department of Education hasn't made the annual surveys required by the basic law for a number of years?

Mrs. WILL. The individual departments do conduct ad hoc surveys.

Senator STEVENS. Which departments?

Mrs. WILL. GSA and the Department of Defense and, in addition, the State licensing agencies should have that information available. They are in the best position to know the status of properties in a particular locale.

Senator STEVENS. Then would you ask the Department of Education to give us a response for the record of whether they think the law ought to be changed? The law says the Department of Education does it, and you are telling me the State agencies now perform the function of trying to determine what vending opportunities exist and to have that information available for the people who are blind who want to take advantage of the Randolph-Sheppard Act.

Mrs. WILL. Yes, sir.

Senator STEVENS. There is confusion in the administration of this act.

Mrs. WILL. Yes; I will be happy to submit the answer in writing.

[The information referred to follows:]

No, we do not believe that a change in the statute is necessary. We believe that the current practice of having the State licensing agencies performing the actual field work on behalf of the Department, and providing information resulting from their surveys to RSA, satisfies the requirement of section 2(a)(2) of the statute that the Secretary, through the Commissioner of RSA, make annual surveys of concession vending opportunities for blind persons. We do not interpret the statute to require that the surveys themselves be directly conducted by RSA staff or other Federal property managing agencies.

Senator STEVENS. Congressman Young?

Representative YOUNG. In your statement, you mentioned the Rehabilitation Services Administration training program of State licensing agencies. Are you aware of any State that does not have a licensing agency available for the blind? If so, what is the agency doing to make any special effort to establish such centers?

Mrs. WILL. No, we don't. We are not aware of any.

Representative YOUNG. All States have a program?

Mrs. WILL. All States, yes.

Representative YOUNG. What criterion is applied by the Department of Education to determine whether a cafeteria should be awarded in any individual case?

Mrs. WILL. It is the same regulation; I would refer you to the same regulation that I read earlier. It is a very simple statement that, "The Secretary determines, on an individual basis, and after consultation with the appropriate property managing department,

agency, or instrumentality, that such operation can be provided at a reasonable cost with food of a high quality."

Representative YOUNG. To follow up on the Senator's question, if the Department hasn't run a review on what is occurring, how can the Secretary do that?

Mrs. WILL. A review of?

Representative YOUNG. I think in my testimony, Mrs. Will, my statement was that the problem here is not the act; the problem is the bureaucracy we are faced with, and a vendor really doesn't know where to go.

You say the State, and the law says it should be the Department. The Department has the law before it that the regulation requires, but it is not being done. I think that is where our real boondoggle comes in because, as the Senator says, if the law should be changed, maybe we should change it.

I don't think that is the real problem.

You have GSA, the Department of Defense, the Department of Education which is actually supposed to be the overseer of this, and the State agencies, and no one is talking to anyone. At the bottom of this is the blind vendor who is supposed to be helped by the Randolph-Sheppard Act. If anything comes out of these hearings, it better be that there better be better cooperation.

I am not browbeating you, but I am suggesting that someone is falling down. We will hear from other witnesses later on. Maybe we can get testimony from other people to get to the bottom of this.

In the blind vending facilities, how many have been established by direct negotiations as opposed to competitive bidding?

Mrs. WILL. We don't have that information available.

Representative YOUNG. Would you get that, please?

Mrs. WILL. Yes.

[The information referred to follows:]

In SLAs that reported during fiscal year 1984, a total of 34 vending facilities were established on Federal property with the following contractual arrangements:

VENDING FACILITIES ESTABLISHED

	Contractual arrangement		Total
	Direct negotiation (permit/ contract)	Competitive negotiation (contract)	
Total	32	2	34
Cafeterias	4	2	6
(GSA)	(4)	0	(4)
(USPS)	0	(1)	(1)
(DOT/FAA)	0	(1)	(1)
Vending machines	14	0	14
Other facilities (snack bar, et cetera)	14	0	14

Source: RSA-15 Data Report submitted by SLAs on Vending Facility Program

Representative YOUNG. Thank you, Mr. Chairman.

Senator STEVENS. Thank you very much. We hope the outcome of these hearings will be that perhaps the people who are administering this act in the two Federal agencies, and at least a committee from the State agencies, will get together and work out some ar-

rangements whereby the problems that have developed in Alaska don't become nationwide. I would urge you to get us the responses we have asked for. Maybe we should submit some recommended changes to the act to make certain there is a firm responsibility in one Federal agency to carry it out. I thought it was pretty clear your Department had that responsibility.

Mrs. WILL. Yes, Senator. The Secretary has the authority or the responsibility of monitoring the program and establishing the almost quasi-judicial process of arbitration and then in the past few months, developing interim proceedings with the establishment of the determination process whereby the Secretary reviews whether a limitation is being placed on the priority.

We do feel that the Department is carrying out the intent of the act and following the regulations.

Senator STEVENS. We look forward to receiving the information we have requested. I expect to ask the Secretary what is going to be done about this.

Thank you very much.

Our next witness is Mr. Wolfgang Zoellner, Assistant Commissioner for Buildings Management of the Public Buildings Service of the General Services Administration, accompanied by Robert Marcus, Director of the Concessions Division.

TESTIMONY OF WOLFGANG J. ZOELLNER, ASSISTANT COMMISSIONER FOR BUILDINGS MANAGEMENT, PUBLIC BUILDINGS SERVICE, GENERAL SERVICES ADMINISTRATION, ACCOMPANIED BY ROBERT D. MARCUS, DIRECTOR, CONCESSIONS DIVISION

Mr. ZOELLNER. Good morning, Mr. Chairman.

I am Wolfgang Zoellner, the Assistant Commissioner for Buildings Management, Public Buildings Service. I appreciate the opportunity to offer testimony on GSA's implementation of the Randolph-Sheppard Act.

GSA takes great pride in its role in supporting and furthering the Randolph-Sheppard Program. There are presently 523 blind-operated vending facilities on GSA property in operation across the Nation. I am pleased to say that 75 cafeterias, representing 45 percent of our cafeterias, are directly managed by the blind.

GSA's Randolph-Sheppard facilities realize annual gross sales in the neighborhood of $75 million. This represents over one-half of all sales on Federal installations and one-fourth of all blind-operated vending facilities on Federal, State, county, municipal and private property. During this past year, GSA approved 23 applications to establish new Randolph-Sheppard facilities.

GSA has consistently relied upon the Randolph-Sheppard Program for the provision of essential food and vending services to building occupants. We have been and remain fully committed to afford maximum opportunities for the blind, and we have made significant progress. Despite past favorable accomplishments, we are redoubling our efforts to create new opportunities and enhance the operation of existing facilities.

I would like to bring to your attention and bring you up to date on some of the specific initiatives under way to simultaneously expand and strengthen the blind vending program.

We have recently issued guidelines to our regional offices asking that they survey existing buildings to identify specific opportunities for Randolph-Sheppard facilities where either none presently exist or where vending facilities are present but additional facilities are determined to be advantageous and feasible.

Prospective locations will be identified for review based not only on current building population levels, but also on an estimated number of visitors. We believe that this effort will result in substantial growth and enhancement of this program. We have established a goal of having 25 new blind-operated facilities placed in operation by the end of fiscal year 1986. In the long term, we would like to see that doubled, if not tripled.

Also, we have recently developed prototypes with model space and equipment layouts for various categories of Randolph-Sheppard facilities. Based on assessments of numbers of patrons expected to be served daily, these prototypes delineate space and utility requirements, necessary equipment, efficient traffic pattern flows and essential work areas.

We are making prototypes available to our regional offices and to State licensing agencies for their consideration and future use should they find them to be helpful. We are working to provide the kind of much-needed assistance to State licensing agencies that will help augment initial designs and perhaps result in some cost savings and show long-term operating profitability, efficiency and patron satisfaction.

GSA is prepared to offer technical assistance and support, as requested, in a broad range of areas such as layout and design, plan reviews, equipment selections, operational surveys, cost control reviews, and sanitation training.

Additionally, there is a growing trend on the part of the State licensing agencies to better communicate management information and to pool resources in specific areas, such as training and food service operating concepts. We believe that these broadened efforts will serve to significantly benefit the Randolph-Sheppard Program.

We have been working very closely with the District of Columbia licensing agency in establishing prototype fast food eateries to be operated by the blind. For instance, the cafeteria in the headquarters for the Department of Education and the food service establishment recently opened in the GSA headquarters building incorporate distinctive fast food themes generally not characteristic of office building food service.

The latter facility, which has been given the name of "Randolph's Emporia," is the result of a coordinated joint effort by the District of Columbia licensing agency and GSA.

The menu profile is consistent with offerings of successful fast food restaurants. The facility has been provided with the most modern equipment, a large greeting card, magazine, and gift area contiguous to the food service, and a very attractive decor throughout.

Former Senator Jennings Randolph has been among the many who have highly praised this unprecedented effort. It has been vis-

ited by representatives of many of the other State licensing agencies to enable them to observe first hand the new concepts involved with Randolph's Emporia.

We will closely monitor the results of this pilot project with the hope that this concept is successful and will provide added opportunities for implementation in Randolph-Sheppard facilities across the country.

In closing, I believe that with Congress, the States, the blind organizations, the Federal agencies and the operators working more closely together and communicating more effectively, the goals of the program will be better fulfilled.

For our part, we are eager to expand and strengthen the relationships we have developed with the State licensing agencies, the blind organizations and others who are working diligently to maximize the opportunities for the blind-operated viable business under the Randolph-Sheppard Program.

You may be fully assured that GSA will not waiver in its commitment.

I will be pleased to answer any questions, Mr. Chairman.

Senator STEVENS. How do you delineate between your responsibility and that of the Department of Education under this act?

Mr. ZOELLNER. Of course, we work very closely with the Department of Education.

Senator STEVENS. Do you have a memo of understanding under the act?

Mr. ZOELLNER. If I may turn to my Director?

Mr. MARCUS. No, Mr. Chairman, we do not.

Senator STEVENS. Have you ever asked them to make the annual survey that is required by the act?

Mr. MARCUS. We are involved in a program of continuing surveys, Mr. Chairman. We have a massive nationwide effort under way at this point.

Senator STEVENS. That is not my question. Are you making the surveys that, by law, the Department of Education is required to make? Is that what you are saying?

Mr. MARCUS. No, sir, we don't.

Senator STEVENS. Have you ever asked them if they are ever going to carry out their functions under the act?

Mr. MARCUS. I don't quite understand, Mr. Chairman.

Senator STEVENS. They are mandated specifically to make an annual survey of opportunities for the blind. Your testimony is that they haven't done it.

Mr. MARCUS. I think I better understand the question now, Mr. Chairman.

We are a property-managing agency rather than the nationwide administrator of Randolph-Sheppard as mandated by the Congress, as I perceive the role of the Department of Education vis-a-vis GSA and the other department managing agencies.

Senator STEVENS. I think you are right, and I think the nationwide survey that they might conduct would be broader than the number of buildings that you administer, as I understand it.

Mr. MARCUS. That is correct, Mr. Chairman.

Senator STEVENS. That is why they were given the function rather than you. You would just be, by definition, limited to those

buildings that are under your supervision or management, as I understand it.

Mr. MARCUS. Yes, sir.

Senator STEVENS. Who made the determination to have 5-year competitive leases that were renewable for two additional terms without any further reference to the question of whether or not there were members of the blind in the communities who wanted an opportunity to take over those facilities?

Mr. ZOELLNER. Mr. Chairman, back in the early 1970's because of the growing lack of interest by the cafeteria operators across the country to provide food service in our buildings, we had a consultant take a look at our policy at that time, and his recommendation was that we enter into a contractual period of 15 years, in essence, with an initial 5-year period and two 5-year options.

We accepted that recommendation. We so briefed the Congress at our oversight hearings on the Randolph-Sheppard Act and have followed that policy ever since.

That is the history of that particular policy.

Senator STEVENS. Is the same 15-year term available to the blind operators?

Mr. ZOELLNER. It is, yes, sir.

Senator STEVENS. On the same terms?

Mr. ZOELLNER. On the same terms. We prefer to negotiate with the blind, but they would be under those same terms. Is that correct, Mr. Marcus?

Mr. MARCUS. That is correct, Senator. In awarding cafeterias to blind operators, the prevalent practice is to offer a permit for an indefinite period.

Senator STEVENS. I am most concerned with these automatic extensions of the 5-year term, apparently without any opportunity for members of the blind community to take advantage of the Randolph-Sheppard Act. Is there any provision that would allow the GSA not to extend the second and third 5-year periods under the original contract?

Mr. ZOELLNER. Mr. Chairman, if, in our assessment, the contract is not being performed satisfactorily, then we will terminate. Also, if the contractor desires no longer to provide service, obviously, the contract is terminated.

To get to the essence of your question, we have, as we expressed in our letter to you and the Congressman, reviewed our existing policy. We intend to finish that review in November, at which time we will communicate to you and the Department of Education and the blind organizations just exactly which way we will proceed.

I am not in a position today to tell you exactly where that review will lead us.

Our basic mission, of course, is to provide quality food service to occupants. We are also very much concerned and interested in protecting the priorities of the blind. I think the record, as stated in my testimony, shows that we do have the interest of the blind at heart and that we are working very affirmatively toward increasing the opportunities.

Certainly, in our review of our existing policy, that will weigh heavily in our decision.

Senator STEVENS. I am concerned that the policies you have implemented, in effect, bar a member of a community eligible to manage a cafeteria under the Randolph-Sheppard Act from having any access to specific opportunities for a period of 15 years. I would like to have, for the record, a copy of that survey you did which led to this policy.

Mr. ZOELLNER. We will provide that.[1]

Senator STEVENS. I would also like to know if your attorneys looked into it at the time to determine whether it was consistent with the Randolph-Sheppard Act. In my judgment, it is not.

Mr. ZOELLNER. Yes, sir.

Senator STEVENS. I do not think the authors of the Randolph-Sheppard Act envisioned that a contractual action would deny an opportunity for 15 years. I think a 5-year original term is consistent with the Randolph-Sheppard Act. The automatic extension, as I understand your testimony, can only be denied because of the failure of an operator to perform.

Mr. ZOELLNER. Or his desire not to continue.

Senator STEVENS. Or his desire. In other words, it is his option to extend it for at least 10 more years.

I see Mr. Marcus shaking his head. I don't want to have a bad record here, Mr. Marcus. Do you disagree with what I have just said?

Mr. MARCUS. Not at all, Mr. Chairman. In the late 1970's, in the early 1980's, we, like many other Federal departments, were mandated to reduce our paperwork. We have recently made concerted efforts to resurrect the original survey which was made in a study back in 1971 and 1972 and were unable to find it.

We will again redouble our efforts to go back to the archives to see if we can find it.

Senator STEVENS. If there was an oversight hearing, the survey would be printed in the hearing record. We will find it that way.

Mr. MARCUS. I was involved, and I can directly answer any questions.

Senator STEVENS. Thank you. I appreciate it. I just think we ought to dig down to the bottom and find out where this policy got out of phase with what I consider to be the original intention of Senator Randolph and Mr. Sheppard when they brought this act forward.

Do you have any procedure whereby State licensing agencies come to you on behalf of the blind to determine whether or not facilities could be made available to blind people in their communities?

Mr. ZOELLNER. Clearly, in the normal course, throughout the country. They don't necessarily come to us here in the central office directly, but they do have a continuing relationship with our contracting officers across the country.

Mr. MARCUS. That is correct. Our regional offices maintain very close working relationships with all the State agencies within their regions.

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[1] See p. 21.

Senator STEVENS. I am a little worried about this from the point of view of its administration. The act appears to have, as I have said repeatedly, three governmental entities involved. If a blind person in any city in the country wants to have an opportunity, I am certain that person will undoubtedly approach your agency. You have people in every area where we have Federal buildings. Yet it appears that your people would send them to the State agencies, is that right?

Mr. ZOELLNER. That is correct.

Senator STEVENS. So then they go to the State agency, and they will be told, "We send our request to the Department of Education." Isn't that correct? Is that your understanding? It is my understanding of what Mrs. Will just said.

Mr. ZOELLNER. Yes.

Senator STEVENS. The Department of Education doesn't have an office in every city in the country where there are Federal buildings; you do.

I would hope that your review would look at the question of what we call a one-stop procedure for people in these categories so they can go to one place and get an answer and file the application there and get the final approval and deal with one person.

I have had extensive experience with people who are blind, and I think the great problem is that we are inclined really, as this testimony shows, just to send them on a circular track so eventually they end up coming back to your people after they went to the State agency and the Department of Education. They come back and deal with your people again. That doesn't seem to make any sense to me.

I will pursue it a little more. Congressman Young has some specific questions.

Representative YOUNG. Mr. Chairman, you have already answered two of them about the August 12 letter to us in reevaluating the position, and we will have the results in November. That has been answered.

I guess my real personal concern in this is—I don't know whether you are aware of it—but this delegation sent a letter on March 6 to Acting Administrator Ray Kline to ask you to consider reviewing blind opportunities in a Federal building. I didn't receive an answer until April 26. By that time, the contract had been extended.

I just don't like that type of conduct. I think it was incorrect. I think it was rude, and do you have any explanation for why that occurred?

Mr. ZOELLNER. Mr. Young, all I can do is, once again, apologize. Quite simply, it was a breakdown in our own internal mail processing.

Representative YOUNG. You are not blaming the Post Office, are you?

Mr. ZOELLNER. No, we are blaming ourselves.

Representative YOUNG. This man is the chairman of the Post Office Subcommittee. He can look into it.

Mr. ZOELLNER. What happened was the letter was prepared. It went through editorial, not substantive, but editorial changes. Un-

fortunately, no one watched the clock, and we were extremely late, and we, again, apologize for that.

Representative YOUNG. Meanwhile, while you were late, the contract had been renewed automatically. We requested a review of that, and it didn't take place.

Mr. ZOELLNER. Well, the actual contract was surveyed back in December of—that would have been 1984.

At that time, the contracting officer, based on his review of the concessionaire's performance, made a decision to exercise that last option, so the action had already been set in motion.

I can only, once again, assure you and your staff that the letter was not delayed in order for us to go ahead and exercise the option prior to responding to you. That was not the case.

Representative YOUNG. It is not going to happen again, is it?

Mr. ZOELLNER. We will certainly be on time with all correspondence.

Representative YOUNG. And with the review that you said on August 12 will take place.

Mr. ZOELLNER. It is under way.

Representative YOUNG. On renewables, as the Senator said, I think it really twists the act itself when there is an automatic 5-year extension or the man says he doesn't want it any more. Basically, it is extended, and it precludes the intention of the Randolph-Sheppard Act. Again, these hearings bring these things out. We will be following your procedure very carefully and looking for your November review.

Thank you, Mr. Chairman.

Senator STEVENS. Could you tell me, will that review give us a list of every contract that is out there now that has an automatic provision for renewal?

Mr. ZOELLNER. We can provide that.[1]

Senator STEVENS. Have you asked your lawyers whether that automatic renewal is absolutely binding on the agency?

Mr. ZOELLNER. Yes. Subsequent to your letter, we went back to our legal department, we went to our contracting department, and they, once again, assured us that we were correct in exercising those options.

Now, the Government, of course, GSA in this case, can choose not to exercise the option, but obviously, the contract was awarded in good faith, and we have a responsibility toward the contractor, as well.

Senator STEVENS. It was contrary to the policy of the act at the time it was done. I misunderstood you. I thought you said your legal people had told you you had no option except to extend that contract, except for two things: One being the nonblind operator deciding that he didn't want it any more; or two, he had failed to perform.

Is your testimony now that GSA, as a management agency of the Government, had the option beyond those two reasons to refuse to renew or, really, to refuse to extend the term of that contract?

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[1] See p. 21.

Mr. ZOELLNER. I need to clarify. We would not extend the option if the contractor had failed to perform.

Senator STEVENS. Yes.

Mr. ZOELLNER. That is what our legal and our contractual people reconfirmed to us.

Senator STEVENS. What if you decided he could perform, but there was a duly qualified person eligible for the priority under the Randolph-Sheppard Act who had come to you in sufficient time prior to the expiration of the term of the contract and asked for that priority to become effective?

Have you faced that question squarely?

Mr. ZOELLNER. We have faced the question, and our position has been that this is actually a 15-year contract consisting of an initial 5-year term and two succeeding 5-year extension periods. That is why I want to review the entire policy.

As I said, we went into this policy back in the early 1970's and it is time to look at it.

Senator STEVENS. I would very much like to have a legal opinion on whether or not GSA has the authority to refuse to enter into the extended term, either at the end of 5 years or at the end of 10 years, for reasons other than failure to perform.

Mr. ZOELLNER. Right. We will provide that.[1]

Senator STEVENS. Obviously, if it is a failure to perform, you retain that right as a management agency of the Government.

But it seems to me that we ought to have the basic right, after a reasonable period of time for a contractor who was awarded a contract in good faith, to say the Randolph-Sheppard Act priority must be given an opportunity to come into effect.

We will look forward to your report. I would urge you to help us. If the law has to be changed, I am more than willing to try to do it.

Mr. ZOELLNER. Mr. Chairman, we also agree that the law as written can work. It does work. We don't believe that changes are necessary to the basic law.

Senator STEVENS. We look forward to your report and thank you very much.

Thank you, Mr. Marcus.

Mr. MARCUS. Thank you.

Mr. ZOELLNER. Thank you.

[The information referred to follows:]

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[1] See p. 21.

General Services Administration
Public Buildings Service
Washington, DC 20405

DEC 12 1985

Honorable Ted Stevens
Chairman, Subcommittee on Civil
Service, Post Office and General Services
Committee on Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This letter is in reference to the Randolph-Sheppard Act hearings held on Friday, October 4, 1985, by the Subcommittee. At the outset, I want to express my appreciation for your invitation to the General Services Administration (GSA) to testify. We strongly share the view that employment opportunities for the blind to operate viable vending facilities should be furthered to the greatest possible extent.

At the October 4 hearing, you asked that GSA provide additional information for the record. We made every effort to locate a copy of the consultant study conducted in the early 1970's. This report formed the basis of agency policy for awarding cafeteria contracts for an initial 5-year period with two possible 5-year extension options. Unfortunately, neither the Government nor the consultant retained copies. The attached paper relating to our current reassessment of this policy includes additional background on this matter which we hope is helpful.

Prior to issuance of GSA's cafeteria contracting policy in 1973, the lengths of contracting and option terms were not the subject of a separate legal opinion.

Prior to issuance, GSA's Office of General Counsel, the Office of Management and Budget, and the General Accounting Office favorably reviewed the detailed cafeteria contacting policy.

The following are attached in accordance with your request:

1. Current legal opinion. In a memorandum dated November 7, 1985, from the Chief Counsel, Public Buildings Division, to the Director, Concessions Division, Office of Buildings Management, the policy at issue is supported from a legal standpoint.

2. Listing of cafeteria contracts. A nationwide list of GSA's cafeteria contracts which includes the years in which current terms and possible extension options expire.

3. Decision as to GSA's policy on options. We have completed the in-depth reassessment of agency policy relating to cafeteria contract periods and extension options. All factors considered, we conclude that State Licensing Agencies (SLA) should not be precluded from the opportunity to assume the operation of a specific cafeteria for up to 15 years. For all cafeteria contracts, therefore, the priority for the blind will be executed in advance of the expiration of each term or extension of the contract. We are developing the appropriate instructions to cover all future cafeteria contracts and those awarded in the past which have one or both of the extension options remaining. Considering the need to conclude and issue implementing policy instructions and the length of the procurement cycle, early 1987 is the earliest existing cafeteria contracts will be subject to negotiation with SLA. To be more specific, the SLA will be afforded the opportunity to provide a proposal prior to the expiration of each contract term or extension.

Of great significance is the fact that our revised policy will now require our regional offices to offer SLA the opportunity to furnish proposals for all cafeteria contracts before the operation of the facility may be opened for competition. These actions represent maximum implementation of the priorities of the blind.

It is clearly believed the foregoing will, on an accelerated basis, result in many additional cafeterias assigned to the blind. The ultimate success of our revised policy is to a great extent contingent upon the goals and capabilities of the individual SLA.

The hearings presented an excellent forum for the exchange of viewpoints aimed at furthering the Randolph-Sheppard Program. Thank you again for inviting our participation.

Sincerely,

Bill Sullivan

WILLIAM F. SULLIVAN
Commissioner

Enclosures

General Services Administration
Office of General Counsel
Washington, DC 20405

Date NOV 7 1985

Reply to Attn of: Chief Counsel - LBL

Subject: Authority to contract for cafeteria services for periods greater than one year

To: Director, Concessions Division - PBR

You have requested our advice as to the authority of the General Services Administration (GSA) to enter into contracts for longer than one year with commercial sources for essential food services which are required for the health, comfort and efficiency of Government employees while on duty.

It has been the practice of GSA and its predecessors to provide these food services by establishing cafeterias in Federal buildings. Until the early 1970's these cafeteria contracts normally were for a period of 5 years with provision for annual renewals or extensions for a maximum of 10 years. Since that time, it has been GSA policy to award these contracts for a 5 year term with two 5 year renewals for a projected contract period of 15 years. It is our understanding this decision was made for the purpose of increasing competition for these contracts which should result in improved food services.

Government contracts are usually limited to one year. This is so primarily because expenditures for contracts are normally made from annual appropriations which are available for the needs of the fiscal year specified in the appropriation act. In this regard, the pertinent provisions of the Anti-Deficiency Act, 31 U.S.C. 1341, prohibits any officer or employee of the United States from -

1. Making an obligation or expenditure in excess of an appropriation or fund; or

2. Authorizing an obligation or expenditure in excess of an appropriation or fund; or

3. Creating a contract or obligation in advance of an appropriation.

In addition to the foregoing, R.S. 3735, 40 U.S.C. 13 provides:

> Except as otherwise provided, it shall not be lawful for any of the executive departments to make contracts for stationery or other supplies for a longer term than one year from the time the contract is made.

As GSA cafeteria contracts do not, however, require the payment of appropriated funds to the contractor (the income to the contractor is generated from sales to the cafeteria patrons), the above cited provisions of the Anti-Deficiency Act and R.S. 3735 are not applicable to these contracts and such contracts are not limited to one year.

In support of this view, we rely on a venerable decision of the Attorney General issued in response to an inquiry from the Secretary of the Treasury concerning the Secretary's authority to enter into contracts for more than one year for ferry service to and from Ellis Island and for subsistence for Government employees and immigrants on the island. The Attorney General advised that the procurement of the transportation facilities and subsistence under consideration was authorized in any manner not prohibited by law that the Secretary shall deem best. The Attorney General concluded that neither the Anti-Deficiency Act nor R.S. 3735 interferes with this freedom of action because no appropriation will be required to be made by Congress on account of either of the contemplated contracts. 20 Op. Atty. Gen. 217 (1891).

In summary, then, it is our view that GSA is authorized to contract for cafeteria services for such a reasonable term as best serves the Government's interest in efficiently maintaining and operating public buildings.

MELVILLE H. VALKENBURG
Chief Counsel
Public Buildings Division

November 5, 1985

GENERAL SERVICES ADMINISTRATION

CURRENT CAFETERIA CONTRACTS

UNIT	LOCATION	STATE	CONTRACT TERM	CURRENT TERM	N.T.E.	SALES (000)
405 S. 12TH	ST LOUIS	MO	70178	63085	86	385
	(CHGE, 75 TO GSA CONTRACTING ORDER 8/13/1973)					
4800 BUFORD	CHAMBLEE	GA	1274	1187	89	288
5000 WISSAHICHON	PHILADELPHIA	PA	11474	44787	89	209
IRS	AUSTIN	TX	50474	50186	89	635
4TH & RUSSEL	COVINGTON	KY	52074	51983	89	329
915 2ND	SEATTLE	WA	81974	81889	89	793
PO SQUARE	BOSTON	MA	81974	81889	89	334
801 BROADWAY	NASHVILLE	TN	112574	112485	89	476
	(ACT AMENDED 11/21/1974)					
2001 12TH AVE	BIRMINGHAM	AL	22875	22787	90	699
575 N PENNSYLVAN	INDIANAPOLIS	IN	31775	31687	90	306
709 W 9TH	JUNEAU	AK	40775	40690	90	282
825 JADWIN	RICHLAND	WA	50375	50290	90	144
1220 W 3RD	PORTLAND	OR	51475	51390	90	607
1961 STOUT	DENVER	CO	62975	62890	90	312
300 N LOS ANGELES	LOS ANGELES	CA	100175	93090	90	642
601 E 12TH	KANSAS CITY	KA	111575	111485	90	950
201 VARICK ST.	NEW YORK	NY	30185	30186	90	300
	(PROPOSED RULES & REGS. 12/23/1975)					
LAFAYETTE & CAMP	NEW ORLEANS	LA	10176	133186	91	578
880 FRONT ST.	SAN DIEGO	CA	20276	20186	91	586
26 FEDERAL P	NEW YORK	NY	51876	51686	91	1454
CARLOS CHARDON	HATO REY,	PR	60376	60286	91	552
477 MICHIGAN	DETROIT	MI	11677	11787	92	646
31 HOPKINS PZ	BALTIMORE	MD	12977	102887	92	431
316 ROBERTS	ST. PAUL	MN	20177	13187	92	221
1160 W 12TH	OGDEN	UT	20177	13187	92	324
1000 LIBERTY	PITTSBURGH	PA	22777	22687	92	713
	(FINAL RULES & REGS. 3/23/1977)					
300 ALA MOANA	HONOLULU	HA	42577	42487	92	637
316 N 26TH	BILLINGS	MT	60977	60887	92	102
1240 E 9TH	CLEVELAND	OH	61177	61087	92	1025
1201 E 10TH	JEFFERSONVILLE	IN	22778	22688	93	64
300 YAKIMIA	WENATCHEE	WA	41078	40988	93	37
1 LEFRAK CITY	FLUSHING	NY	62578	61888	93	291
74 N WASH	BATTLE CREEK	MI	100178	100288	93	488

UNIT	LOCATION	STATE	CONTRACT TERM	CURRENT TERM	N.T.E.	SALES (000)
701 C	ANCHORAGE	AK	20579	20489	94	767
FORT SNELLING	TWIN CITIES	MN	32379	32489	94	529
106 WYNN	HUNTSVILLE	AL	32479	32389	94	163
75 SPRING	ATLANTA	GA	40279	40189	94	894
9700 PAGE BLVD	ST LOUIS	MO	40779	40689	94	463
1500 & 2300 BAN	KANSAS CITY	MO	50579	50489	94	600
600 W MADISON	CHICAGO	IL	60179	60289	94	547
600 FED PLACE	LOUISVILLE	KY	73079	72986	94	421
970 BROAD	NEWARK	NJ	100979	100889	94	696
300 N GREEN	BALTIMORE	MD	20480	20389	95	734
450 MAIN	HARTFORD	CT	80180	73185	95	112
11601 ROOSEVELT	PHILADELPHIA	PA	10481	10386	96	603
ADMINISTRATION	OAK RIDGE	TN	12481	12386	96	59
2401 E (NW)	DC	DC	21781	21686	96	310
1520 MARKET	ST LOUIS	MO	31681	31586	96	401
1900 E (NW)	DC	DC	50481	50386	96	301
4300 GOODFELLOW	ST LOUIS	MO	50581	50486	96	790
SOUTH CLINTON	SYRACUSE	NY	51281	51186	96	197
40 FOLEY SQUARE	NEW YORK	NY	51881	51686	96	313
300 SPRING GARD	PHILADELPHIA	PA	62581	62486	96	302
1002 N E HOLLADAY	PORTLAND	OR	70181	63086	96	287
GOVT. CENTER	BOSTON	MA	80181	73186	96	489
FOB #2	ARLINGTON	VA	83181	83086	96	1076
4TH & C (SW)	DC	DC	83181	83086	96	321
230 DEARBORN	CHICAGO	IL	90981	90886	96	884
219 DEARBORN	CHICAGO	IL	90981	90886	96	471
65 E 9TH	CHICAGO	IL	100181	93086	96	285
3131 DEMOCRAT	MEMPHIS	TN	111581	111686	96	428
GSA CENTER	AUBURN	WA	113081	112986	96	145
5045 E BUTLER	FRESNO	CA	10382	10287	97	457
1111 CONSTITU (NW)	DC	DC	30182	22887	97	542
4735 E MARGINALLY	SEATTLE	WA	51582	51487	97	207
W 6TH & KIPPLING	DENVER	CO	70382	63087	97	824
360 MARKET	PHILADELPHIA	PA	92782	82687	97	252
1000 INDEPEN (SW)	DC	DC	22883	22788	98	1072
6 & ARCH	PHILADELPHIA	PA	60483	60388	98	563
1040 WAVERLY	HOLTSVILLE	NY	70583	70188	98	748
PEN & CONSTITU	DC	DC	90683	90588	98	196
WASH NAVY YARD	DC	DC	110783	110588	98	133
*550 W FORT	BOISE	ID	111983	111888	98	170
225 CADMAN PE	BROOKLYN	NY	102383	120288	98	341
830 3RD & 29TH	BROOKLYN	NY	120383	120288	98	113

UNIT	LOCATION	STATE	CONTRACT TERM	CURRENT TERM	N.T.F.	SALES (000)
536 S CLARK	CHICAGO	IL	22184	22089	99	202
7TH INDEPEND	DC	DC	31984	31889	99	826
6 WORLD TRADE	NEW YORK		30584	30589	99	826
6401 SECURITY	WOODLAWN	MD	33084	33089	99	1650
310 LOWELL	ANDOVER	MA	70184	63089	99	400
330 & 200 INDEPEND	DC	DC	100184	93089	99	950
450 GOLDEN GATE	SAN FRANCISCO	CA	10585	10390	00	600
*2800 COTTAGE WAY	SACRAMENTO	CA	10385	10287	00	223
*6401 SECURITY	WOODLAWN (E)	MD	10086	10091	01	275
*6401 SECURITY	WOODLAWN (A)	MD	10086	10091	01	350
GSI (TOTAL)	MD VA & DC	SAME INDEFINITE			NA	17289
						58728

TOTAL 85

*SLA OPERATIONS

GSA STUDY OF THE FOOD SERVICE POLICY

ON CAFETERIA CONTRACT EXTENSION OPTIONS

Purpose: Conduct a management study involving a comprehensive objective reevaluation of nationwide agency policy concerning Food Service Contract extensions options.

Background: For many years GSA has been making and administering contracts for the operation of cafeterias in buildings which it operates. Most of these contracts have been awarded as a result of competitive bidding on the basis of detailed written specifications and requirements. Several distinct methods of bidding had been used up through the early 1970's. None of the methods used up to that point proved fully satisfactory from the aspects of advertising, bidding, award, or contract administration.

The agency's present cafeteria contracting procedures were issued in July, 1973 (subsequent modifications have been made) and have proven to be highly successful. Their issuance preceded the amendments to the Randolph-Sheppard Act which broadened the priority of the blind to now include the operation of cafeterias on Federal property. The subsequent development of implementing regulations to the Randolph-Sheppard Act took cognizance of GSA's contracting procedures without challenge.

With respect to the duration of agency cafeteria contracts, the maximum permissible term prior to 1973 involved ten years. In the early 1970's GSA experienced a significant decline in the number of food service firms bidding for agency cafeteria contracts. The period of time involved unprecedented rapid increases to operating expenses, most significantly food and labor costs. A former PBS Commissioner directly hired a knowledgeable consultant to investigate many facets of GSA's food service program. Agency cafeteria contracting policies and methodologies were integral to this effort.

A key recommendation of the consultant involved extending the maximum allowable duration of cafeteria contracts from ten to fifteen years. It was the intent that operations and viability would be enhanced while simultaneously revitalizing interest and competition by the private sector relative to our contracts. The consultant at the time carefully investigated policies, methodologies, and practices of corporations and institutions that contracted for food services on a large scale. Despite concerted efforts on the part of the program office to obtain a copy of the original consultant study, no copies have been retained in any office contacted. The foregoing, along with a number of other significant changes, was incorporated into agency cafeteria contracting procedures.

Recent Developments. The National Federation of the Blind (NFB) has expressed the view that our current policy has served to restrict the opportunity for award of our cafeterias under the Randolph-Sheppard program. At the NFB's national convention in July, 1985 the Assistant Commissioner for Buildings Management indicated that GSA would thoroughly reassess its policy concerning cafeteria contract extension options in light of GSA's service delivery mission and commitment to the Randolph-Sheppard program.

This issue was the major focus of Senate hearings held on October 4, 1985 chaired by Senator Ted Stevens of Alaska. GSA indicated it would furnish Senator Stevens with a copy of the study upon its completion in November, 1985 (in addition to other information requested).

Study Methodology: The Office of Buildings Management obtained extensive management information and views on this issue by contacting its regional offices, GSA Central Office elements involved with the issue, other Federal property managing agencies which administer food service programs, major private cafeteria operators, private corporations with large scale cafeteria

services, and the Department of Education representing the State Licensing Agencies and private blind organizations.

GSA considered the following alternatives relative to cafeteria contract terms and extension options.

1. Retention of the present policy of initial five year terms with two possible successive five year extension options for a maximum period of fifteen years (the status quo).

2. Retention of the present policy (as in alternatives no. 1), however, afford state licensing agencies the opportunity to submit proposals in advance of the expiration of all stipulated five year terms.

3. Reduction of present terms to reflect an initial three year period with subsequent two year extensions allowable up to ten years.

4. Reduction of present terms to reflect an initial three year period with two one-year extension options allowable up to five years.

5. Our regional offices were encouraged to submit other alternatives as they deemed advantageous.

The implications, advantages and disadvantages of each alternative were considered most carefully in view of program goals, legal requirements, and perceived long range impact on agency food service programs.

Conclusions. Among GSA's regional offices and concerned Central Office elements, there was the overwhelming view expressed that the current initial contract and extension option terms should not be changed. Data obtained from the private sector and other Federal departments was for the most part, supportive of retention of the present stipulated contract periods.

The view was widely shared that shortening the duration of contract terms (initial and option periods) would significantly diminish the ability of GSA to secure adequate competition and retain, in the long term, qualified cafeteria operators. This principle equally benefits the blind as it impacts upon commercial cafeteria operators.

It has been also concluded that this policy has been in the past, and is currently, legally justified and supportable. At the same time the conclusion is reached that the contention of the blind that they may be precluded from consideration for the operation of a GSA cafeteria for an unduly long period is valid. There is merit to the premise that GSA's existing policy relative to extension options has not been in full accord with the intent of the Randolph-Sheppard Act.

All factors considered, alternative no. 2 should be adopted for all future GSA cafeteria contracts. This is perceived to be most consistent with attracting the best qualified cafeteria operators and assuring that the blind have an opportunity for cafeteria contract awards at intervals that cannot exceed five years. The Office of Buildings Management, with necessary involvement with the regional offices and the Office of Contracts, will develop the appropriate policy. This policy will encompass all future GSA cafeteria contracts and, considering schedules with views toward uninterrupted food services, contracts awarded in the past with remaining extension options (the earliest practicable date would fall in early 1987). Lastly, the blind's priority is to be further strengthened by providing for direct negotiations for all future GSA cafeteria contracts prior to competition.

Senator STEVENS. Our next witnesses are Allen (Sandy) Sanderson and James Gashel from the National Federation of the Blind.

Congressman Young had to go back to the House.

Go right ahead. Who is going to go first?

TESTIMONY OF ALLEN (SANDY) SANDERSON, PRESIDENT, NATIONAL FEDERATION OF THE BLIND OF ALASKA, ANCHORAGE, AK, ACCOMPANIED BY JAMES GASHEL, DIRECTOR OF GOVERNMENTAL AFFAIRS, NATIONAL FEDERATION OF THE BLIND, BALTIMORE, MD

Mr. SANDERSON. Thank you, Mr. Chairman. I appreciate the chance to come to you as an elected State president of the National Federation of the Blind of Alaska to talk about the problems that we have in Alaska with the cafeterias in Federal buildings. That is the only issue that I am going to deal with.

I also bring you thanks from our members in Alaska. We have, in the State of Alaska, four vendors and four only. We have in the State of Alaska four Federal buildings. But of the four Federal buildings, we have only two people in Federal stands. Both of those stands are what some would call dry stands. One of them is magazines, newspapers, candy bars, and bubble gum. The other one is a gift shop.

The cafeterias, of course, have been exempted from the blind, and this started back in 1977, when the State licensing agency bid on the cafeteria in the Federal building in Anchorage, AK.

You notice I said "bid." The bid was denied. They weren't competitive enough. Then it was intended to take that to the Department of Education or whoever and argue that out. Well, it so happened that in GSA, two of their people came to Anchorage and talked this over with the Director of the Division of Vocational Rehabilitation, and they traded us 1 large cafeteria, which holds between 500 and 600 people, for 2 little stands, the one I previously mentioned, which, by the way, would have been ours anyway under the priority.

So all we did was we lost the cafeteria; we didn't get traded anything. We lost the cafeteria.

The second cafeteria, in Juneau, is a good-sized cafeteria, a very lucrative cafeteria, by the way, which was given under bid, again, in 1985, and as we know, the 1974 amendments mandated the priority for the blind. But once again, that was a bid.

Now, in 1984, I started conversing with Barbara Smith from region 10 in GSA about getting into that cafeteria through the State licensing agency and at that time, of course, as you know, Mr. Chairman, I consulted your offices, as well as Congressman Young's and Senator Murkowski's office, to assist me in getting that cafeteria, because the second 5-year period was going to be coming up, the finalizing of that was going to be coming up in 1985.

Well, as you can see, I started over a year before that contract, the 5-year extension, was over, and obviously, we lost that one again. So we wait another 5 years.

Now, there is a third cafeteria which is in Fairbanks. That cafeteria, some 2½ to 3 years ago, was offered to the blind through the State licensing agency. It was turned down. There were less than

200 people in the building, and nobody in the vicinity would come to that cafeteria outside of the building people.

Two to three people came in there and operated that cafeteria, and every one of them failed. Then, in the process, the equipment was more or less given to the State licensing agency by GSA, and they said, "Go and do it."

The State licensing agency and the State picked it up and did put two different blind vendors in there. Both of them failed. That cafeteria today has been closed. That is the third Federal building.

The fourth Federal building just opened in late 1984. We have been given the priority in that building, but let me tell you how that came about.

I first discovered the fact that that building was going to be leased, renovated and that two Federal agencies were going in there. I was contacted by one of our members, as a matter of fact, who works and is now working in that building.

I contacted the State licensing agency, and they said yes, they had been offered to put something in that building. I then got a hold of Barbara Smith, region 10 out of Seattle, WA.

They were going to give us 400 square feet with the intention of putting in a bank of vending machines. This progressed because I went back to the people in the building; they wrote letters that they were not happy with vending machines. They wanted some place they could get food—good, hot food.

GSA then offered us 600 square feet for a little vending stand. That did not come up to what the people in the building wanted.

We now are in the process of having a 1,200 to 1,500 square foot minicafeteria built, but I say to you, Mr. Chairman, that had that 1,200 to 1,500 square feet been up front in the very beginning, there would have been another priority down the tubes for the blind. I fully believe that in what I have seen in the State of Alaska and the dealings I have had with GSA there.

That is basically where we sit on the cafeteria issue.

We are badly in need of a good cafeteria where we can train our people to run cafeterias. We don't have that situation going for us. We are badly in need of enhancing the program for the blind in the cafeterias in the program. Today, we have only four people in the whole State, and we have four Federal buildings. That tells us something. Of course State buildings, which, as you can see, were in dire need, and the mandate of the Congress was for the program to grow, not to diminish, and we have diminished.

Three years ago, we had seven vendors; today, we have four. So as you can see, that is why I am highly concerned about this issue and why I have been so adamant in coming to you with the problem.

I do want to tell you that I appreciate greatly the overall effort of our State delegation. From the day I brought this issue to our delegates, they took it and ran with it with us, and I want to commend all of our delegation from Alaska, and I want to thank you so much and thank you for the time that you have given me.

Senator STEVENS. Thank you, Sandy. We will print your complete statement in the record.

Jim, do you have a statement?

Mr. GASHEL. Yes; thank you very much, Mr. Chairman. My name is James Gashel, and I am director of governmental affairs for the National Federation of the Blind. I will be summarizing my statement. Really, it presents an overview of the entire national picture, because this is not a situation simply limited to the State of Alaska, I think as was probably indicated by the failure of the Department of Education to be able to explain how this program is administered.

I guess it really isn't being administered very consistently or in a very coordinated fashion. That is quite a serious problem, because the 1974 amendments to the Randolph-Sheppard Act sought to centralize the administration of this program within the Department of Education. But, as I will be saying, regulations of the Department of Education have really turned the statute on its head and delegated back to the various property-managing agencies such as GSA all of the decisions, and then the Department of Education doesn't even conduct the surveys that were mentioned.

I think the record, in terms of accuracy, should really show, as far as GSA is concerned, as far as the normal vending facility rather than cafeterias—as far as the vending facility which is kind of a snack bar or a newsstand or a gift shop, as Sandy was saying—they are pretty cooperative about our having those, and those are given to the blind on a priority, and it is done exclusively.

But as was indicated here this morning, we only have, under this priority, 45 percent of the GSA cafeterias. You know, I think if Congress had a law that gave us a priority and that law existed since 1936, we should have more than 45 percent of the cafeterias today. We probably should have 80 or 90 to 100 percent of those cafeterias today. We only have 45 percent. So the glitch here is in how this cafeteria priority is treated.

With respect to that, it was mentioned by Mr. Zoellner that the new concept is being tried out down here at the GSA building with the Randolph-Sheppard eatery. Well, that is a fine idea. However, it seems to me that we really ought to examine how that originally came about.

In late 1983, GSA went out with a public solicitation excluding any of the State agencies for the blind, and they wanted to set up a fast-food restaurant in the GSA headquarters building at 18th and F Streets.

None of the blind vendors or their State agencies in the area of Washington, DC, were allowed to bid on that because of the way the solicitation was written. The Department of Education didn't even know that this was going on until they read about it in the Wall Street Journal.

So we had to take to the streets, and we had to come up to Congress to get that solicitation stopped; GSA pulled it and then went back and decided that they should negotiate with the blind, and we have the Randolph-Sheppard eatery as a result.

I think that is a positive move, but it wouldn't have come about that way, because we know full well what you would really see today is the golden arches at 18th and F Streets rather than the Randolph-Sheppard eatery.

So there has not been the fullest cooperation possible in bringing about these cafeterias.

The statutory mandate is that—and I will read it—"The Secretary of Education, on an individual basis, is to determine when the cafeteria priority shall apply." That is section 107(d)(3)(e) of the act. That refers to the Secretary of Education the responsibility to determine when the cafeteria priority shall apply.

But let me just explain how the Department of Education's regulations then provide for that determination to be made. The Department of Education's regulations, which are 34 CFR Part 395.33 (b), say that GSA is permitted to conduct a public solicitation for bids, and when they do that, that they then send that solicitation also to the State licensing agency for the blind, and the State licensing agency for the blind would then respond if they wanted to.

Now, of course, GSA, under those regulations, also has the option to enter into direct negotiations with the State licensing agency for the blind and in a kind of sole source fashion, without going to the commercial vendors at all.

But they do under this regulation have the commercial bidding procedure, normal contracting. We think that is wrong, and I will explain why in a minute.

Under that bidding procedure, once GSA receives the offer from all bidders, then GSA determines whether or not the bid of the State licensing agency for the blind is responsive to the solicitation. The Department of Education never sees that.

But let's assume that they find that the bid submitted by the State licensing agency for the blind is responsive. Then GSA goes to the next decision, and under that regulation, the next decision is to determine whether or not the bid by the State licensing agency for the blind fits within the category of those bidders who might possibly get the award. Well, if they determine that the bid of the blind agency fits outside of that category, then nobody ever sees that.

GSA can decide that this bid just wouldn't be competitive enough to get the award. So they can exclude it, and the Department of Education doesn't see that either.

If they finally determine that the bid of the State licensing agency for the blind is responsive and if they determine that it could possibly be awarded the cafeteria, then they go to the third point under that regulation which is, "Does the bid fall within a competitive range?" The term competitive range is not defined by anybody.

So if GSA decides that the bid of the State licensing agency for the blind is responsive and competitive, the State licensing agency could possibly get the award. But if GSA decides on the third point that the bid of the State licensing agency for the blind does not fall within the competitive range, then the Department of Education never sees that either.

In other words, the bid of the State licensing agency for the blind has to surmount three hurdles, and then, believe it or not, there is a fourth hurdle. The question finally reaches the Secretary of Education, whose responsibility then would be presumably to apply the priority.

Now, after you have got all that, what is the option of the Secretary of Education? Presumably he could turn it down, saying that the bid of the State licensing agency for the blind shouldn't be

granted priority. But after all, you have got a bid that is responsive, competitive and within a competitive range. So why shouldn't the blind get the priority?

The only option the Secretary of Education really has there is to say that the bid of the State licensing agency for the blind should get the priority. In other words, the statute has been turned on its head.

In this instance, the authority of the Secretary of Education is being delegated back to the property-managing agencies. I think therein lies the answer for why we only have 45 percent and not 100 percent of the GSA cafeterias.

As to this contract extension issue which has come up, I just wanted to comment on that briefly.

We believe that that is a violation of the priority, and the testimony from GSA indicates that the consultant's report was conducted in 1971 or 1972 and they are not sure they have the document anymore.

But from the oversight hearings in 1979, we know that that was conducted prior to the 1974 amendments to the Randolph-Sheppard Act so that GSA's consultant's report did not factor in the new cafeteria priority that Congress placed in the law in 1974.

As a matter of fact, the consultant's report came out about 6 months before Congress enacted the new priority. They knew full well that Congress was moving toward that.

I think that no matter what that consultant's report eventually says, GSA really has to, in good faith, go back and assess what Congress did 11 years ago to install a new cafeteria priority and see whether or not that now complies with the 15-year extension practice.

Not all of the Federal agencies have the practice of extending contracts for as long as 15 years, and once we lose those contracts, then we are out for 15 years.

I just want to close by indicating what our recommendations are that we would hope would come out of this hearing: First, that the Secretary of Education should amend the regulations governing the awarding of cafeterias; that amended regulations should require direct negotiations by property-managing agencies with State agencies for the blind, subject to monitoring by the Secretary of Education. In the event that a property-managing agency cannot obtain a satisfactory agreement through direct negotiations and after a good-faith effort has been made, the property-managing agency shall file with the Secretary of Education a request to terminate the negotiations. The Secretary of Education shall approve the property-managing agency's request to terminate the negotiations upon his finding that a good-faith effort has been made by the property-managing agency to apply the blind priority.

Our second recommendation is that GSA, on its own, should immediately adopt a policy of using direct negotiations with State agencies on behalf of blind vendors in all cases where a cafeteria contract is contemplated. Competitive solicitations should only be used as a secondary award mechanism, and only after a good-faith effort has been made for direct negotiations with an agency for the blind, and after those negotiations have failed.

Our third point is that in cases where cafeterias are awarded to State agencies for the blind for operation by blind vendors, the award should be by permit with an indefinite expiration date as is required by the Department of Education's regulations. Permits are subject to cancellation upon notice, as is also provided in the Department of Education's regulations.

Our next to the last point is that in all cases where the cafeteria awards are made to commercial vendors under contracting procedures maintained by GSA, a good-faith effort should be made to invoke the blind priority prior to the expiration of each term for the extension of the contract. Thus, if the initial term of the contract, let's say, runs for 5 years, then at the end of that 5-year period, a good-faith effort should be made to award that contract under the priority and to determine whether or not a blind vendor is available.

Our fifth and final recommendation, Mr. Chairman, is that the process that you have started here today to examine and to bring out these facts into the light and to try to wrestle out how the administration of this program is failing, that this process would continue and that Congress and your subcommittee would maintain a strong oversight to assure that the priority for blind vendors is consistently observed throughout the Federal Government.

Thank you very much.

Senator STEVENS. Thank you very much. I think I am constrained to say to both of you that this committee would basically not have jurisdiction, over amendments, if there were any suggested, to the Randolph-Sheppard Act. That is under Labor Committee jurisdiction. However, we do have jurisdiction and oversight over the operations of the General Services Administration and intend to pursue that.

I will notify the chairman of the Labor Committee that we have held this hearing and will provide him with the recommendations you have given to us. I will also continue to look at this from the point of view of the responses we get, both from GSA in November and from the Department of Education, concerning their policies for the future.

I think oversight of the Department of Education, as far as their actions under the act, is truly under the jurisdiction of the Labor Committee, and I will suggest to them that they ought to monitor, through that committee, the Department's compliance with the basic Randolph-Sheppard Act.

But it is my judgment that the basic question that has come from these hearings and from the matter that Sandy brought to our offices is that a practice has developed of entering into not just a reasonable contract despite the Randolph-Sheppard priority for the nonblind operator, but that we have now the policy of a contract which has two apparently automatic extensions available to the operator which denies any Randolph-Sheppard priority for 15 years. I think this situation must be reviewed, and it may well be that it will take a change of law to deal with it. I'll have to wait to see.

Second, it does appear that the Randolph-Sheppard Act may need revision in terms of dealing with a State which, through its licensing agency, is less than responsive to the basic policy of the

Randolph-Sheppard Act in assisting blind people in carrying out the priority that is available to them under that act.

That, unfortunately, is hinted at by Sandy, as far as our own State is concerned. I will have to talk with them about that, Sandy. But beyond that, it does seem that there ought to be power in the GSA to deal directly with a qualified blind vendor without having the necessity of another government entity involved, namely, the State licensing agency.

I have just been reviewing the 1974 amendments. They clearly inject into the whole operation under this act the State licensing agency's responsibilities.

I am quoting now from the report that was filed by Senator Randolph in 1974. He said:

> These include cooperation with the Secretary of HEW in selecting satisfactory sites for vending facilities; provision for the submission of blind licensee grievances to a full evidentiary hearing; establishment of a retirement, health insurance, sick leave and vacation system with set-aside funds, after a majority vote for such system by licensees, who are to have full information on such proposed system; limitation on the use of vending machine income assigned to the State agency to pension, health, and leave purposes, and reduction of assessments against blind licensees for set-aside purpose where there is remaining vending machine income for such purposes; provision of access to all relevant program financial data to blind licensees; conduct of a biennial election for a committee of blind vendors, which shall participate in the State program's administrative, policy, and program development decisions, training programs, and instructional meetings for blind licensees; and report to the Secretary on implementation of the provision requiring uniform accounting procedures, licensee income distribution, use of set-aside funds, and selection and establishment of facilities.

It may be that the 1974 act imposed such broad-ranging responsibilities on the State licensing agencies that they are reluctant to get involved, particularly in a State like ours, Sandy, where you only have three or four potential places to operate. I think that has to be examined, because for a State to undertake all those responsibilities, it is going to need a considerable number of people in the vocational rehabilitation agency.

Mr. GASHEL. Mr. Chairman, may I just comment on what you are saying? I think what you are bringing out here is a very excellent point, because the vendors are really the subjects of bureaucratic agencies that are really, in many cases, not business managers either. They are rehabilitation workers; a lot of times, they don't understand how you go out and make a buck in the world.

They are State entities. They are entities in the government, and also in the Federal Government. But let me just say that in Wyoming, recently—the question was asked, "Is there any State that doesn't have a licensing agency?"

I don't know if the official papers show it this way, but Wyoming withdrew from the program or is in the process of withdrawing. I think that may have happened earlier this week with the end of the fiscal year.

Senator STEVENS. Jim, I think you ought to take a look at the problem. When I was with the Interior Department, we had all kinds of problems with the individual concessionaires in national parks. We assisted in the formation of the National Parks Concessions, Inc. It was a corporation that handled many of the functions for park concessionaires that would be beyond the capability of one small concessionaire. Through the national organization, they have

been able to extend their concession operations to almost every park in the country.

Mr. GASHEL. GSA made a private deal with the only blind vendor in Wyoming to stay in that building. I think GSA should be commended for that. Because if you would strictly read the act, I suppose the priority extends to the State, but they moved in with a blind vendor. Wyoming had not had a blind vendor until they stopped having a State licensing agency, and then GSA put a blind vendor in. [Laughter.] I think that is a good thing.

Senator STEVENS. What I am suggesting to you is that maybe the National Federation of the Blind should have a blind vendor's contracting corporation, and it could be a nonprofit organization, to take on this whole question of the burdens that were imposed by the 1974 act on the State agencies. We may not need the State agencies in this at all. After all, they are Federal properties. [Applause.]

Mr. GASHEL. If GSA would cooperate in that, I think we would be inclined to do it.

Senator STEVENS. I am going to look into it and see if that is possible under existing law. If it is not, I will suggest that to the Labor Committee and to the Department of Education and get their response.

I think you two have gotten our attention, and we will follow up on it. So we thank you very much, Sandy.

Mr. SANDERSON. Thank you very much.

Senator STEVENS. You have to come a long way down to see me every time you come. I know. I will be seeing you in a couple of weeks up there.

Thank you very much.

Mr. SANDERSON. Thank you so much.

[The prepared statements of Messrs. Sanderson and Gashel follow:]

TESTIMONY OF ALLEN SANDERSON

BEFORE THE SUBCOMMITTEE ON CIVIL SERVICE, POST OFFICE,

AND GENERAL SERVICES

COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

WASHINGTON, D.C.

OCTOBER 4, 1985

Mr. Chairman, I am Allen (Sandy) Sanderson. I serve as the elected president of the National Federation of the Blind of Alaska. My address is 226 East 23rd, Anchorage, Alaska 99503. I and the members of our Alaska affiliate deeply appreciate your strong interest in the problems now being experienced by blind vendors in our state and everywhere. We believe this hearing is a significant step toward a resolution of those problems. Therefore, our group from Alaska commends you for your diligence and concern in holding this timely hearing.

In Alaska, Mr. Chairman, we currently have four vending facilities operated by blind persons under the Randolph-Sheppard Act. Two of these are on federal property. None to my knowledge would properly be classified as a cafeteria. I know that the focus of this hearing is on issues surrounding the implementation of the cafeteria priority now in the law, so I will confine my remarks to our particular concerns in that area.

The National Federation of the Blind of Alaska has promoted the goal of assigning federal cafeteria operations to blind vendors in our state and throughout the United States. We are not content with the idea that blind people should be stuck off

in lobby stands, selling confections, tobacco products, newspapers, and gum. Small operations such as these are more like charity shops for blind vendors than they are viable businesses. Mr. Chairman, we want real business opportunities in order for blind people to achieve their maximum vocational potential. That is what we believe the Randolph-Sheppard Act was designed to provide for the blind. So we strongly promote the idea that blind people should be assigned federal cafeterias in GSA buildings and all other federal property.

Now we have tried to promote this idea with our state agency, the Alaska Division of Vocational Rehabilitation. They are not too enthused about blind people operating cafeterias. But eventually we will get that concept accepted by our agency in Alaska. However, before we can get to that point, it is clear that we will need greater cooperation by the United States General Services Administration, GSA. GSA controls at least three federal buildings in Alaska that I know of right now, and at least one more is coming up. But so far the blind are not managing any of the cafeterias in these buildings. We had one in Fairbanks which was closed recently due to lack of business.

The Randolph-Sheppard Act was amended in 1974 to provide a priority for blind persons to operate cafeterias on all federal property. According to the 1974 amendments to the law, cafeterias are defined within the scope of vending facilities, and there is a priority under the Act for blind persons to operate all types of vending facilities, wherever they exist or may exist on federal property. But GSA has persisted in treating cafeterias differently from other vending facilities. We think

that is wrong.

The first point at which we differ with GSA is where that agency wants to require competitive bidding for the cafeterias. There is no priority in the way they do this, Mr. Chairman. Competitive bidding is actually used to circumvent the priority, not to comply with it. If you just check the figures, I think you will find only one or two rare instances in the past ten years when competitive bidding conducted by GSA has actually resulted in a cafeteria being awarded for operation by the blind.

Our experience in Alaska actually shows that to be the case. Several years ago--in the 1970s, when the new federal building in Anchorage was under construction--I convinced the Alaska Division of Vocational Rehabilitation to attempt to secure the cafeteria which was contemplated for that building. It was bound to be a good business for a blind person in our state. Our program is small, and we could use something like a large GSA cafeteria to stimulate growth. It would have been an ideal training facility, as well as producing a good income for at least one blind vendor in our state.

Well, GSA did not cooperate. The Alaska Division of Vocational Rehabilitation was required to submit to the competitive bidding process. This meant that the agency had to prepare a response to a competitive solicitation and have its proposal evaluated by GSA in comparison to similar offers by large commercial food service companies--many of them not even Alaska-based companies. Now, Mr. Chairman, I must say that I rejected at the time, and I still reject, the idea that our state

agency should be required to compete for cafeterias with commercial vending companies, whether they are inside or outside of our state. To require our state to bid against commercial firms is an abuse of the blind priority and an affront to what Congress intended in writing the law. If there is a priority, then I do not understand the competition. But what happened in Alaska proves that there is not a priority.

The bid of Alaska DVR was not accepted by GSA. I believe they said it was not responsive or not competitive enough to have been awarded in light of the other offers GSA received. If that is so, I do not understand how any form of priority could have been assigned in evaluating our state's bid. Apparently the state agreed with me enough so that steps were taken by Alaska DVR to protest what GSA had done in turning down our offer to operate the cafeteria. I am sorry to say that the state's protest was never prosecuted fully due to an early settlement between GSA and DVR. But the fact remains that the protest was made.

As to the settlement, that, too, turned out to be a very bad deal for the blind. According to my understanding, the Alaska DVR should have been granted a priority to install blind vendors in each and all of the vending facilities in the new federal building in Anchorage, as well as in the cafeteria. But when the cafeteria was lost (and when it became a matter of protest with GSA) the settlement was to offer the state two other vending facilities in the building, consisting of a gift shop and a newsstand. These the state could have had any way under the existing statutory priority. So there was really no trade off

for the cafeteria--we just lost it, that's all. And they called that a settlement.

So we lost the cafeteria in Anchorage. As to the cafeteria at the federal building in Fairbanks, GSA never required the state to bid competitively for that one. Why--because almost no one else wanted to operate that cafeteria in Fairbanks. I believe that was the reason. Two or three commercial vendors tried to make a go of it, but all of them failed. Then GSA virtually begged the Alaska DVR to come in under the Randolph-Sheppard Act. GSA even supplied the equipment for the cafeteria left over from the commercial operations. Their situation was that no one else would bid on the cafeteria, so it had to be offered to the state. That was hardly a priority. The business in that federal building would likely not survive, and GSA knew it. So they offered it to the blind as a last resort. Would you call that a priority?

Now here is another point at which we differ with GSA. I have been told that GSA awards all cafeteria contracts for an initial term of five years each. Then two extensions are granted for each contract more or less automatically, bringing to fifteen years the total time it will normally run. That is a policy of GSA, to extend cafeteria contracts for a total of fifteen years, rather than exercising the blind priority every five years. And in Alaska, Mr. Chairman, we have also been victimized by this policy. Only last spring we had the latest instance where GSA's extension policy was used in a way that blocked exercise of the blind priority. This occurred with a cafeteria at the federal

building in Juneau. It is now operated by Food Management Control of Seattle, Washington under an extension which GSA approved in April of this year. Now that extension was approved by GSA even though we had notified them of our desire to have Alaska's blind vending program considered. Even the Congressional delegation got into this, as you know. But GSA stood firm, and the cafeteria is still operated by Food Management Control of Seattle, Washington.

As I understand the Randolph-Sheppard Act, Congress expected that a statutory priority would result in expanding the number of federal cafeterias operated by blind vendors on all federal property. However, in Alaska, we have experienced no expansion whatsoever. In fact, we have lost one. I think there is no doubt that this is largely due to GSA's competitive bidding requirements and the policy of extending cafeteria contracts to commercial firms for as long as fifteen years. Now I do not pretend to be an expert in the law or in the workings of Congress, but somehow, something ought to be done. If Congress can pass a law and GSA can then ignore it, our government is in chaos. What good is a law in the first place?

So, Mr. Chairman, I guess what I am asking is that somehow you take steps to police this law and assure the blind of our state and of our country that GSA will comply. That is what I am seeking in this hearing--to achieve a true and fair exercise of the blind priority in the manner expected by Congress and expressed in the statute, the Randolph-Sheppard Act. I do not think that is too much to ask, because our government saves hundreds of thousands of dollars each time one blind person is

employed as opposed to unemployed and living at public expense. That is what we are talking about. The Randolph-Sheppard Act is an investment in blind people and an investment which pays off for the taxpayers of our nation as well. It is a good law in human terms, and it is sound financing too. Therefore, I hope you will take steps to see to it that this law is enforced to the maximum extent of the priority that Congress intended. That is what we are seeking, and I thank you for the opportunity to present our problem and look for a solution with your help.

NATIONAL FEDERATION OF THE BLIND TESTIMONY
BEFORE THE SUBCOMMITTEE ON CIVIL SERVICE, POST OFFICE,
AND GENERAL SERVICES
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
WASHINGTON, D.C
OCTOBER 4, 1985

Mr. Chairman, my name is James Gashel. I am Director of Governmental Affairs for the National Federation of the Blind. My address is 1800 Johnson Street, Baltimore, Maryland 21230; telephone (301) 659-9314. I very much appreciate your invitation and the fact that this Subcommittee is holding a hearing on abuses of the blind priority with respect to cafeterias on federal property.

As you know, Mr. Chairman, the National Federation of the Blind has been in the forefront of efforts to expand the blind vending program on federal property. Our objectives are consistent with what Congress set out to do when the Randolph-Sheppard Act was amended last in 1974. I will be commenting on these matters specifically in a moment. First, however, there are a few words to be said about the National Federation of the Blind and the source of our interest in the subject now before you.

Our Federation, Mr. Chairman, is nationwide in scope. We have state affiliates in all fifty states and the District of Columbia. There are local chapters of the National Federation of the Blind in most sizable population areas, as well. Each of

these organizations represents the rank and file blind. Together, we represent the blind of our nation from the community level to the national level. By constitutional requirement, all of our leaders and a majority of our members must be blind. This is the only way for the blind of our country to have an independent voice, separate from that of the public and private agencies that serve the blind. In contrast to these agencies, we are the blind, and we have organized to represent our own interests.

Nearly 3,700 blind people in our country today operate successful businesses which are part of the blind vending program on federal, state, county, municipal, and private property. Without these businesses, many of the individuals involved would not have had an opportunity to work at all, and many others would not have had a comparable work opportunity were it not for the blind vending program. This is why we are so vitally interested in maintaining a healthy program of business opportunities for the blind on public property and in fostering its growth wherever possible.

Mr. Chairman, the Randolph-Sheppard Act is the federal law which mandates a priority for business enterprises to be operated by the blind wherever feasible on all federal property. The priority or preference for the blind to operate businesses on state, county, municipal, and private property is a matter of state law, with requirements that vary markedly from state to state. Our focus, today, is on federal property.

Quite naturally, the interests are divided. Being blind, we represent the concerns of the vendors. We are, in effect, the intended beneficiaries of the statutory federal priority. By

contrast, the other interests are essentially those of government agencies (state and federal) who are expected to cooperate on behalf of the blind to assure that the beneficial results intended by law are achieved.

The critical first step in understanding the blind vending program is to realize that the blind vendors are absolutely dependent upon effective cooperation between agencies of government at two levels, federal and state. This is not a free-for-all where each vendor negotiates his or her best deal in the free market place of competition. The vendors are not free to do that. They depend upon the federal agencies on the one hand to adhere rigorously to the priority in all instances. And on the other hand, the vendors also depend upon their state agencies to negotiate effective arrangements with the federal agencies and to defend the blind priority against any potential abuse. Under this arrangement, each level of government must bear in mind its obligation to the vendors under the priority in order to assure that the objectives of the law will be achieved. Having said this, I will now discuss how, in our view, two federal agencies (the General Services Administration and the Department of Education) are failing to fulfill their respective obligations to assure a priority for blind vendors in the operation of federally located cafeterias.

Policies of the General Services Administration Affecting the Blind Priority for Cafeterias

(1) Statutory Requirements: The 1974 amendments to the Randolph-Sheppard Act established for the first time a specific requirement that cafeterias on federal property are to be awarded

in accordance with the statutory priority for blind vendors. That requirement was placed in the law in response to complaints from state agencies and blind vendors charging that the General Services Administration, was refusing to observe the priority for the blind in deciding on cafeteria assignments. Some question was raised as to whether the priority applied or not. So Congress corrected that specifically by writing in cafeterias under the general definition of "vending facility." Then to underscore the intent even more, a special subsection devoted exclusively to cafeterias was included in Section 7 of the amended Randolph-Sheppard Act. That provision (Section 7(e) of the Act) gives the Secretary of Education exclusive responsibility for prescribing regulations sufficient to award a priority for blind vendors to operate cafeterias on federal property when he (the Secretary of Education) determines on an individual basis that the cafeteria can be operated by the blind with food of a high quality at reasonable prices comparable to that currently provided to employees. I will comment later on the failure of the Department of Education properly to implement that statute. However, the policies and preferences of GSA are also involved in the failure.

(2) GSA's Bidding Policy and Practice: According to GSA's policies and practices regarding the award of cafeterias, the priority for the blind need only be observed selectively. The policy now in effect for cafeterias construes the exercise of the priority as merely a matter of agency discretion, not statutory mandate. What do I mean? In the normal case, when GSA institutes a procurement action leading to the award of a

cafeteria contract, there is a public solicitation of proposals and an evaluation to determine which of the proposals submitted are both responsive and competitive. Then the selection is made by GSA based on its evaluation of the proposals that are responsive and competitive.

That would clearly be the customary procedure for awarding cafeteria contracts if there were no statutory priority intended to protect the interests of the blind. But there is a priority, so how does GSA honor it? Well, Mr. Chairman, there is a one word answer--selectively. Sometimes GSA honors the priority by negotiating directly with state licensing agencies for the blind to see if it is possible to reach an agreement on assigning a cafeteria to the blind vending program. This process of "direct negotiation" is always used in awarding all vending facility sites other than cafeterias. It is sometimes used for cafeterias, too, but only at GSA's option. The alternative method which GSA chooses to exercise at its own discretion is the competitive bidding system.

Under competitive bidding, GSA simply treats a state agency for the blind as though it is one of many commercial vendors interested in obtaining a contract. The offer of the state must meet GSA's technical requirements for qualifying as "responsive." If there is a way that GSA can show that the state's bid is unresponsive, the offer is rejected. Then only the commercial vendors are the competitors, and the priority for the blind is gone altogether. GSA reserves exclusively the prerogative of determining whether an offer by the state or any other bidder is or is not responsive. Therefore, GSA determines when to award

the priority or when not to.

But the plot thickens. Let us assume that under any standard imaginable GSA cannot exclude the state agency's offer because in fact it is responsive. Ah! There is yet another wrinkle. The state's bid must also come within a competitive range of the other proposals as determined by GSA and must further be ranked by GSA as falling among those proposals which have a reasonable chance for being selected for final award by GSA. That's a policy packed with discretion for GSA. GSA decides everything--who is responsive; of those, who is competitive; of those, who has a reasonable chance of getting the award; and of those, who actually gets the award. Only at the last step (deciding who actually gets the award) is there any suggestion that a priority might be applied on behalf of the blind. And all of this despite the statute which vests in the Secretary of Education the sole authority to apply the priority or waiveit as he determines after considering the facts on an individual basis.

(3) Extended Contracts: From my comments so far, it should surely be obvious that obtaining the priority for blind vendors to operate cafeterias in the first place is a rather doubtful and fairly chancy process. Clearly, the use of the above described bidding procedure, as opposed to the direct negotiations method, has diminished the number of cafeterias that we would expect should be awarded for operation by blind vendors. But a further diminishing has also occurred because of another GSA policy to extend all cafeteria contracts for a period of three times their

initial term.

Under GSA policy, cafeteria contracts are initially awarded for period of five years each. That should mean that once the priority for the blind is initially lost due to bidding, there should be another opportunity in five years or so to apply the priority once again. But not so. As a matter of GSA policy, cafeteria contracts may be extended at the discretion of the contracting officer for a period of five years beyond the initial term, and then again at the discretion of the contracting officer, a second extension may also be granted for an additional five years. With all extensions included, this means that the priority, once it is lost, is gone for a total of fifteen years, not five years. Again, these extensions are solely at the option of GSA. And despite his statutory authority, the Secretary of Education is effectively blocked from approving or disapproving the priority on an individual basis as required by the statute.

Consider what effect this contract extension policy actually has on the exercise of the blind priority for cafeterias. Under the policy, most of the GSA cafeteria contracts remain outside of the blind priority for a period of at least fifteen years. Then if the priority is not applied on the rare occasions when there is an opportunity to exercise it, another fifteen years will be lost. This despite the fact that federal regulations require GSA to apply the priority at the "expiration" of each contract. I suppose it all depends upon how you define "expiration." As a matter of policy for GSA, the end of the initial term of any cafeteria contract or any of its extensions should be regarded as an expiration point, at which time the priority for the blind

should be exercised. Honoring the statutory priority for the blind should be GSA's first obligation each time a contract or its extension is contemplated.

Department of Education Responsibilities and Conduct

(4) Department of Education Regulations: The 1974 amendments to the Randolph-Sheppard Act established the Department of Health, Education, and Welfare's Rehabilitation Services Administration (now in the Department of Education) as the lead agency government-wide for the administration and supervision of the blind vending program. While in many instances the Secretary of Education is required to consult with property managing agencies, departments, and instrumentalities, final decisions on regulations which apply to all agencies are exclusively the responsibility of the Secretary of Education. As noted earlier, with respect to cafeterias, the Secretary of Education also has a responsibility for determining on an individual basis when or when not to exercise the blind priority. But let us now see how that responsibility is actually implemented by the regulations of the Secretary of Education.

34 CFR Section 395.33 (Subsection B) delegates to each property managing agency the conduct of a competitive bidding procedure in the case of cafeterias "in order to establish the ability of blind vendors to operate a cafeteria in such a manner as to provide food service at comparable cost and of comparable high quality as that available from other providers of cafeteria services . . ." Of course, the property managing agency designs the solicitation for proposals, sets up the criteria by which

they will be evaluated, determines whether the offers it receives are responsive, and determines which of the responsive offers are competitive enough possibly to receive the award. All of this is done without involvement by the Secretary of Education. In practical as well as legal terms, therefore, the construction of the regulation constitutes a direct reversal of the statute, Section 7(e) of the Randolph-Sheppard Act. This is so because the property managing agency may disqualify on its own initiative any proposals submitted by a state agency on behalf of blind vendors. First, is the proposal submitted by the state on behalf of the blind responsive--the property managing agency, not the Secretary of Education, decides. Second, is the proposal submitted by the state on behalf of the blind ranked among those which have a reasonable chance of receiving the award as determined through competition with offers submitted by commercial firms--the property managing agency, not the Secretary of Education, decides. And third, does the proposal submitted by the state on behalf of the blind fall within a competitive range of the offers submitted by commercial firms that are likely to obtain the award--the property managing agency, not the Secretary of Education, decides. Then only after all of these decisions are made and in the event that a proposal submitted by the state on behalf of the blind survives, then and only then is the matter referred to the Secretary of Education for an evaluation as to whether or not to apply the blind priority.

The purpose of the 1974 amendments to the Randolph-Sheppard Act was plainly to expand the number and type of vending facilities (including cafeterias) operated by blind persons on

federal property. Congress, in fact, expressed a goal of doubling the number of blind vendors on federal property within a period of five years after enactment of the 1974 amendments. That did not happen. One reason it did not happen is clearly due to regulations such as the one I have just described which delegate back to the property-managing agencies all of the decisions which Congress vested in the Secretary of Education. It was expected that the Secretary of Education would be in a better position to promote the interests of the blind vending program while taking into account the views of property-managing agencies in making his evaluations. That is the rationale behind Section 7(e) of the Randolph-Sheppard Act, but that rationale is being overlooked by the regulation which plainly turns the statute on its head.

(5) Effect of the Department of Education Regulations: As indicated from the foregoing, the Department of Education's regulations at 34 CFR Section 395.33(b) permit GSA's policy of selective compliance with the blind priority for cafeterias. The result is that some of the cafeterias are awarded for operation by blind vendors, and some are not. This is solely at the option of GSA. Under the regulations issued by the Secretary of Education, GSA may choose to approach state agencies who can then directly negotiate for cafeteria awards on behalf of blind vendors. But if GSA does not want to use that procedure, the Department of Education regulations provide for the competitive bidding process I have already desribed. The regulations do not require GSA to consider the blind priority in deciding whether to negotiate directly with state agencies on behalf of the blind

or to invoke the competitive award system.

I suppose it ought to be obvious that the purpose of the blind priority, which applies to cafeterias as well as to all other vending facilities, is to expand opportunities for the blind to conduct business on federal property. So in order to achieve the aim of the statutory priority in the instance of cafeterias, a method of awarding cafeterias should be pursued which is likely to result in expanding the number of blind cafeteria operators. Such a method, in the form of direct negotiations with state agencies for the blind is, in fact, available as I have described. However, the regulations of the Secretary of Education give GSA the discretion not to use it. The result is that fewer cafeterias are being awarded for operation by the blind than would otherwise occur if a true priority were rigorously observed in every case.

The latest count I have shows that 76 GSA cafeterias are currently being operated by blind vendors. With only one or two exceptions, these are cafeterias which have been awarded by GSA using the direct negotiations procedure as opposed to competitive bidding. In the preponderance of cases, when GSA invokes the competitive bidding procedure, the award is eventually made in favor of commercial vendors as opposed to blind vendors. But on the other hand, in the preponderance of cases where GSA first invokes the direct negotiations method, the award is almost always made to state agencies on behalf of blind vendors as opposed to commercial vendors. So the evidence will show that the direct negotiations method for awarding cafeterias is best designed to achieve the objectives of the Randolph-Sheppard Act.

Recommendations

Mr. Chairman, observing the blind priority in all cases of cafeteria awards is clearly something that Congress intended to be administered by the Secretary of Education with the fullest cooperation of GSA. However, the regulations issued pursuant to the statute have not carried out the Congressional mandate. Corrective action is in order. Accordingly, we offer the following recommendations:

(1) The Secretary of Education should amend the regulations governing the awarding of cafeterias. The amended regulations should require direct negotiations by property managing agencies with state agencies for the blind, subject to monitoring by the Secretary of Education. In the event that a property-managing agency cannot obtain a satisfactory agreement through direct negotiations, and after a good faith effort has been made, the agency shall file with the Secretary of Education a request for termination of the negotiations. The Secretary shall approve the property-managing agency's request to terminate the negotiations upon his finding that a good faith effort has been made by the property-managing agency to award the cafeteria for operation by blind vendors in accordance with the statutory priority.

(2) GSA should immediately adopt a policy of using direct negotiations with state agencies on behalf of blind vendors in all cases where cafeteria awards are contemplated. Competititive solicitations should only be used as a secondary award mechanism and only after good faith direct negotiations have failed to result in an award being made in accordance with the statutory

blind priority.

(3) In cases where cafeterias are awarded to state agencies for operation by blind vendors, the award should be by permit with an indefinite expiration date as required by Department of Education regulations. Permits are subject to cancellation upon notice also as provided by regulation.

(4) In all cases where cafeteria awards are made to commercial vendors under contracting procedures maintained by GSA, a good faith effort should be made to invoke the blind priority prior to the expiration of each term or extension of the contract. Thus, if the initial term of the contract or any of its extensions is a five-year period, there should be an opportunity provided to apply the blind priority at the end of each five-year segment.

Conclusion

Mr. Chairman, I hope it is clear from our analysis of this issue that GSA and the Department of Education have a joint responsibility to assure strict adherence to the blind priority in awarding federally-located cafeterias. Unfortunately, however, that strict adherence is not occurring due to policies and regulations of these agencies. Blind vendors are therefore forced to turn to Congress for help. Late in 1983, GSA solicited bids from national fast food chains with the idea of leasing space to them in federal buildings nationwide. That solicitation was issued without the slightest effort by GSA first to approach any of the state licensing agencies for the blind. It was a direct affront to the blind priority, and we are seriously concerned that such an event might happen again unless the

current regulations and policies are changed. This is why we appeal to you for the assistance of Congress in securing observance of the recommendations we are making. Only in this way can we assure that the blind priority will be rigorously observed. That is what Congress expected, and that is what the blind desire.

Senator STEVENS. The hearing will now come to a close.

[Whereupon, at 11:25 a.m., the subcommittee was recessed, to reconvene subject to the call of the Chair.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Statement of Senator Frank H. Murkowski
Subcommittee on Civil Service, Post Office, and General Services
October 4, 1985

Mr. Chairman, distinguished members of the Committee, it is a pleasure for me to add my support to your efforts to ensure that the intent of the Randolph-Sheppard Act is being complied with by agencies of the Executive Branch.

Under the provisions of the Randolph-Sheppard Act, the General Services Administration is required to promote opportunities for blind vendors in cafeterias and other types of vending facilities. My particular concern, which I know will be addressed during this hearing, is to find out how the policy of extending cafeteria contracts for as long as 15 years is coordinated with the blind-priority requirement.

This issue was brought to my attention by Sandy Sanderson the President of the Alaska Federation of the Blind. Because I understand that Mr. Sanderson will be here to testify and will provide more specific details with respect to the Randolph-Sheppard Program in Alaska I won't take up the Committee's time outlining this issue now.

There are currently four liscensed blind vendors in the State of Alaska and I want to make sure that they are given every opportunity to operate cafeterias or other vending operations under the intent of Randolph-Sheppard Act.

However, I stress that I am not satisfied that the General Services Administration in exercising its current contract extension policy complies with the intent of the Randolph-Sheppard Act. In that regard I have been informed by the GSA that is has agreed to reexamine its policy concerning contract extension options. Mr. Chairman, I will be interested to know the progress of the review. Also, I assure you that I will support any legislative or regulatory changes that may be needed in order to strengthen the Executive Branch's compliance with the Randolph-Sheppard Act.

Thank you Mr. Chairman for giving me the opportunity to present my views on this important concern.

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